

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Mario Jaime Duarte,)	C/A No. 2:13-2132-DCN
)	
Plaintiff,)	
)	
vs.)	
)	OPINION & ORDER
W. Vincent, <i>Lieutenant</i> ; T. Jenkins, <i>Officer</i> ;)	
D.M. Williams, <i>Officer</i> ; J. Ballew, <i>Officer</i> ,)	
)	
Defendants.)	
)	

Plaintiff, Mario Jaime Duarte, (“Plaintiff”), is a federal prisoner in the United States Penitentiary Coleman I (“USP Coleman I”) of the Federal Bureau of Prisons (“BOP”) in Coleman, Florida, who is proceeding *pro se*. This action was transferred to this Court, on August 7, 2013, from the District Court of the District of Columbia, where it was filed, on July 16, 2013. Plaintiff’s Complaint concerns an alleged assault upon him by Defendants, four correctional officers, while Plaintiff was housed in the Federal Correctional Institution Estill, in Estill, South Carolina. *See* ECF Nos. 1, 4, 5. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) D.S.C., this case was assigned to United States Magistrate Judge Hendricks for initial review.

By Order dated August 8, 2013 (ECF No. 10), Plaintiff’s Motion for Leave to Proceed *in forma pauperis* (ECF No. 2) was granted, and Plaintiff was ordered to submit proposed service documents for Defendants. Pursuant to this Court’s standing order, *In Re: Procedures in Civil Actions Filed by Prisoner Pro Se Litigants*, 3:07-mc-5014-JFA (D.S.C. Sept. 18, 2007), Plaintiff was given twenty-one (21) days from the date the Order was entered, plus three (3) days for mail time, to submit the required service documents to bring the case into proper form for evaluation and possible service of process. *See* ECF No. 10, p. 1-2. Magistrate Judge Hendricks warned Plaintiff

that failure to provide the necessary information and documents within the timetable set forth in the Order would subject the case to dismissal. *Id* at p. 1.

The Order was mailed to Plaintiff, in an envelope listing Plaintiff's BOP register number, *i.e.* R99869-008, at the address Plaintiff provided to the Court, which is the correct address for USP Coleman I, *i.e.* P.O. Box 1033, Coleman, Florida 33521. Plaintiff failed to respond to the Order, and the time for responding lapsed on September 3, 2013. The mail in which the Order was sent to Plaintiff has not been returned to the Court. Thus, the Court presumes that Plaintiff received the Order, but has neglected to comply with it within the time permitted under the Order. Plaintiff's lack of response to the Order indicates an intent to discontinue prosecuting this case and subjects this case to dismissal.

It is therefore **ORDERED** that this case is **DISMISSED**, without prejudice, pursuant to Rule 41 of the Federal Rules of Civil Procedure. *See Link v. Wabash Railroad Company*, 370 U.S. 626 (1962).

IT IS SO ORDERED.

September 12, 2013
Charleston, South Carolina



David C. Norton
United States District Judge

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.